JDPA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
2008 AUG 18 AM 11:57
CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA, Plaintiff,	Magistrate Docket No. '08 MJ 2547
v.	COMPLAINT FOR VIOLATION OF:
Eliseo ESPANA-Rios, Defendant	Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **August 15, 2008** within the Southern District of California, defendant, **Eliseo ESPANA-Rios,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **18th** DAY OF **AUGUST, 2008.**

Barbara L. Major
UNITED STATES MAGISTRATE JUDGE

DOA 8/15/08 KNH

CONTINUATION OF COMPLAINT:
Eliseo ESPANA-Rios

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On August 15, 2008, Border Patrol Agent A. Pearson, was assigned to line watch duties in Otay Mesa, California. This area is approximately five miles east of the Otay Mesa, California Port of Entry and approximately two miles north of the international border between the United States and Mexico. Undocumented aliens frequently use this area to further their illegal entry into the United States. At approximately 9:20 a.m. Agent Pearson responded to ground sensor activation. Agent Pearson walked through brush and spotted an individual later identified as defendant **Eliseo ESPANA-Rios**. Agent Pearson identified himself as a United States Border Patrol Agent in the English and Spanish languages and attempted to question him to determine his citizenship and immigration status.

ESPANA ran away from Agent Pearson and headed east toward the sensor he had come from. Agent Pearson ran after ESPANA commanding him to stop. Approximately fifteen minutes into the pursuit, ESPANA became tired and walked to Agent Pearson.

Agent Pearson again identified himself as a United States Border Patrol agent and questioned ESPANA about his country of citizenship. ESPANA explained that he was a citizen of Mexico and was not in possession of legal immigration documents. ESPANA admitted that he had illegally crossed the border near Otay Mesa, California through the mountains. At approximately 9:45 a.m.Agent Pearson placed ESPANA under arrest and was transported to the Brownfield Border Patrol Station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **October 30, 2007** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on August 16, 2008 at 10:00 am.

Irene S. Aguirre
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **August** ~~**14**~~ 15, **2008,** in violation of Title **8**, United States Code, Section **1326**.

Barbara L. Major
United States Magistrate Judge

8/16/08 at 10:36am
Date/Time